

SENATE BILL NO. 37

INTRODUCED BY C. KAUFMANN

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE INDIVIDUAL INCOME TAX CREDIT FOR ENERGY-CONSERVING EXPENDITURES; PROVIDING A TAX CREDIT FOR LIMITED LIABILITY PARTNERSHIPS, S. CORPORATIONS, OR OTHER DISREGARDED ENTITIES AND FOR TAXPAYERS WITH CERTAIN INCOME LEVELS; PROVIDING A REFUND FOR UNUSED ENERGY-CONSERVING EXPENDITURE TAX CREDITS; AMENDING SECTION 15-32-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AND A RETROACTIVE AN APPLICABILITY DATE, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-32-109, MCA, is amended to read:

"15-32-109. Credit for energy-conserving expenditures. (1) Subject to the restrictions of ~~subsection (2)~~ subsections (4) and (5), a resident individual taxpayer may take a credit against the taxpayer's tax liability under Title 15, chapter 30, for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a building or the installation of a water, lighting, heating, or cooling system in the building, ~~so as long as either type of investment is~~ the investments are for an energy conservation purpose, in an amount not to exceed ~~\$500~~ \$800.

(2) (a) Subject to the restrictions of subsections (4) and (5), a resident individual taxpayer with a family income of less than or equal to the amount established in subsection (2)(b) may take a credit against the taxpayer's tax liability under Title 15, chapter 30, for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a building or the installation of a water, lighting, heating, or cooling system in the building, as long as the investments are for an energy conservation purpose, in an amount not to exceed \$800.

(b) To be eligible for the credit allowed by this subsection (2), a single taxpayer OR A MARRIED TAXPAYER FILING ON A SEPARATE FORM may not have income, as defined in 15-30-171, in excess of \$15,140 and married couples filing jointly or separately on the same form OR A TAXPAYER FILING AS A HEAD OF HOUSEHOLD may not have income, as defined in 15-30-171, in excess of \$21,310. The department, by November 1 of each year, shall multiply the income amounts in this subsection (2)(b) by the inflation factor, as defined in 15-30-101, for that year

1 and round the product to the nearest \$10. The resulting adjusted income is effective for that tax year and must
2 be used in determining the eligibility for the credit allowed by this subsection (2).

3 (3) Subject to the restrictions of subsections (4) and (5), a limited liability partnership, S. corporation, or
4 other disregarded entity may take a credit against the taxpayer's tax liability under Title 15, chapter 30, for 25%
5 of the taxpayer's expenditure for a capital investment in the physical attributes of a residential rental building or
6 the installation of a water, lighting, refrigeration, heating, or cooling system in the building, as long as the
7 investments are for an energy conservation purpose, in an amount not to exceed \$800.

8 (4) A taxpayer's expenditure may be claimed for credit under subsection (1), (2), or (3) but may be
9 claimed under only one of those subsections.

10 (2)(5) The credit credits under subsection subsections (1):

11 —— (a) may not exceed the taxpayer's tax liability; and

12 —— (b) is through (3) are subject to the provisions of 15-32-104.

13 (6) The credits under subsections (1) and (3) may not exceed the taxpayer's tax liability. If the amount
14 of the tax credit under subsection (2) exceeds the taxpayer's income tax liability for the tax year, the amount of
15 the excess must be refunded to the taxpayer. The credit under subsection (2) may be claimed even if the claimant
16 has no taxable income.

17 (7) If the taxpayer PERSON MAKING THE INVESTMENT is an S. corporation, the shareholders may claim a
18 pro rata share of the tax credit. If the taxpayer is a partnership or disregarded entity, the credit may be claimed
19 by the partners or members in the same proportion used to report the partnership's or entity's income or loss for
20 Montana income tax purposes."

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22 COORDINATION SECTION. SECTION 2. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 645 IS NOT
23 PASSED AND APPROVED WITH SPECIFIC FUNDING FOR THE INCREASED INCOME TAX CREDITS PROVIDED IN [THIS ACT], THEN
24 [THIS ACT] IS VOID.

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26 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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28 NEW SECTION. Section 4. Retroactive applicability APPLICABILITY. [This act] applies retroactively,
29 within the meaning of 1-2-109, to tax years beginning after December 31, 2008, AND TAX YEARS ENDING BEFORE
30 JANUARY 1, 2011.

2 NEW SECTION. SECTION 5. TERMINATION. [SECTION 1] TERMINATES DECEMBER 31, 2010.

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